IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 20528 of 2007(R)

PETITIONER:

KOSHY K.C., AGED 82 YEARS,
W/O CHERIAN, KOCHUPARACKAL BUNGALOW,
PATHANAMTHITTA P.O., PIN-689645.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY THE
SECRETARY, DEPARTMENT OF DEFENCE,
CENTRAL SECRETARIAT, NEW DELHI.

2. CHIEF OF THE NAVAL STAFF,
NAVAL HEAD QUARTERS,
NEW DELHI-110011.

3. REAR ADMIRAL ACOP(CIV),
INTEGRATED HEAD QUARTERS,
MINISTRY OF DEFENCE (NAVY),
DIRECTORATE OF PAY AND ALLOWANCES,
D-11 WING, SONA BHAVAN,
NEW DELHI-110011.

BY ADV. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.20528 of 2007-R

Dated this the 4th day of July, 2007.

J U D G M E N T

The petitioner was a Sailor in the Royal Indian Navy enrolled in 1941. He was recruited for 12 years actual and 10 years reserved service. But, after completion of 5 years, he participated in the Royal India Navy mutiny. He was dismissed from service on 4-4-1946 and he was imprisoned also. Later, the Government recognised that the mutiny will be treated as freedom struggle. Therefore, the petitioner was treated as a freedom fighter and he has been granted Thamapatra and also freedom fighter's pension. Recently, the petitioner moved various authorities under the Government, claiming that he is entitled to get pension from 1953 to 1976. But, the said claim was considered and finally rejected by Ext.P13. It was further reiterated in Ext.P14, by the competent authority. This writ petition is filed, challenging Exts.P13 and P14. The stand taken by the competent authorities in those orders is that the petitioner is a dismissed employee and therefore, as per the Pension Regulations for the Royal India Navy, 1943, the petitioner is not eligible for pension. Unless the Government frames some Rules making special provision for pension to those who dismissed from service for participation in the mutiny, the petitioner cannot be granted pensionary benefits. So, I find nothing illegal with the stand taken by the

officials in Ext.P13 or Ext.P14. This Court can grant relief, if only, the petitioner has a right emanating from some Rules or Orders, relevant on the subject. No Rule or Order has been placed before me making the petitioner eligible for pension for his service in the Royal India Navy.

In the result, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
JUDGE.

MS